

KADG320055662024



**IN THE COURT OF
PRL. CIVIL JUDGE AND JMFC HARIHAR,
AT HARIHAR**

**Presided Over by SMT. JYOTI ASHOK PATTAR
(B.E., LL.B.)**

O.S. No.186/2024

Dated this the 16th day of December, 2025

Rudramma and others.

....PLAINTIFFS

Vs.

Ningappa and others.

....DEFENDANTS

PARTIES TO I.A.No.1

Rudramma and others.

**....APPLICANTS/
PLAINTIFFS**

Vs.

Ningappa and others.

**....OPPONENTS/
DEFENDANTS**

i	Provision under which the application is filed	U/O XXXIX Rule 1 and 2 of CPC
ii	Relief sought for	Temporary Injunction
iii	The date on which the application is filed	23.08.2024
iv	Number of the application	01
v	The date on which the objections are filed by the defendants opponents	02.12.2024
vi	The date on which the orders passed on the said application.	16.12.2025

ORDER ON I.A.No.1

The present application is filed by the plaintiffs U/O XXXIX Rule 1 and 2 R/w Sec.151 of CPC along with plaint, seeking an order of temporary injunction restraining defendants from alienating or otherwise encumbering of suit schedule property.

2. It is stated in the accompanying affidavit that plaintiff and defendants are the joint family members and the suit schedule properties are ancestral joint family properties of the plaintiffs and defendants. The defendant No.1 and 2 changed the katha of suit schedule property in their name behind the back of plaintiffs in order to grab the share of plaintiffs over the suit schedule property. It is learned that the defendants are trying to alienate the suit schedule property by misusing the created revenue

records of the property. Hence, the present suit and application.

3. Per contra, the defendant No.1 to 3 filed objection and contended that the defendants No.1 to 3 got property from their father under MR.No.46/1987-88 and till today they are having possession of the suit schedule property. The plaintiffs have field case against these defendants in the Tahsildar Court Harihar, Assistant Commissioner Court, Davangere all the Courts dismissed the case of plaintiffs, finally they filed case before Hon'ble Principal Senior Civil Judge at Harihar and its O.S. No.99/2004, the said case was also dismissed. Without cause of action the plaintiffs now filed this suit after the laps of 20 years and the suit is barred by law of limitation. Hence, prays to reject the application.

4. Heard both side.

5. The following points arise for this Court determination;

- 1) Whether the plaintiffs have made out prima-facie case?
- 2) Whether plaintiffs have made out the balance of convenience in their favour?
- 3) Whether the plaintiffs will be put to irreparable injury, if the temporary injunction as claimed by is refused?
- 4) What Order?

6. This Court findings on the above points are as under:

Point No.1:In the Negative

Point No.2:In the Negative

Point No.3:In the Negative

Point No.4:As per final order,
for the following;

REASONS

7. Point No.1 to 3: In order to get the order of temporary injunction plaintiffs have to show that, prima facie case is in their favour and balance of convenience lies in their favour. Further they have to show that in case of temporary injunction order as sought by is not granted, they will be put to heavy and irreparable loss, which cannot be compensated in terms of money.

8. Keeping the above cardinal principles in mind, this Court has gone through the materials placed on record. The specific case of the plaintiffs is that, the suit schedule property is joint family property of plaintiffs and defendants they are entitled to share in the suit schedule property and relied on the following documents i.e., RTC of Sy. No.28, Encumbrance certificate, Sketch dated: 13.06.2024, Hand written RTC of Sy.No.28 for the year 1967-1970, Documents of rights, Handwritten RTC of Sy. No.28 for the year 1978 -2000, certified copy of plaint of O.S. No.99/2004, certified copy of written statement of

O.S. No.99/2004, entire Order sheet of O.S. No.99/2004, Xerox copy of katha hissa of suit schedule property. Per contra defendants relied on following documents i.e., Mutation Register M.R. No.46/87-88, RTC dated: 20.09.2024, RTC dated: 21.09.2024, Xerox copy of order copy dated: 24.02.2003, Xerox copy of order dated: 18.02.2003, Encumbrance certificate dated: 11.09.2024, Genealogy tree dated: 21.09.2024, Death certificate of Mallappa, Death certificate of Hanumakka, Death certificate of Hanumanthappa, Tax paid receipt, Crop Conformation letter dated: 21.09.2024, certificate dated: 09.09.2024.

9. The specific case of the plaintiffs is that, the suit schedule property is ancestral joint family property of plaintiffs and defendants and they are entitled to share in the suit schedule property. Per contra the defendants denied the case of plaintiffs and contended that they are the owners in possession of suit schedule property. It is pertinent to note that plaintiffs have not produced any documents to show that the suit schedule property was standing in the name of their ancestors, but the documents produced by the plaintiffs are standing in the name of defendants. Moreover the defendant No.1 to 3 contended that they have already obtained loan by mortgaging the suit schedule property on 30.06.2005 by the Vijaya Bank. Such being the case the contentions of

both the parties are matter of trial. But at this stage Court cannot held mini trial. Thus this Court opines that, the plaintiffs have failed to establish prima facie case in their favour.

10. At this juncture, any opinion on merits of the case will prejudice the mind of the parties. Therefore, without going to the merits of the case. As stated above there is no clarity regarding nature of the suit schedule property. Hence, considering the material placed on record, it can be said that, the plaintiffs have not made out prima facie case.

11. That the plaintiffs have failed to establish prima facie case in their favour, Hence the other two principles i.e. balance of convenience and irreparable loss does not taken into consideration. That keeping open the contention of the both the parties for the trial. This Court opines that, the plaintiffs have failed to establish prima facie case in their favour for the reasons stated supra. Therefore, the other two principles i.e. balance of convenience and irreparable loss does not taken for consideration. Hence the Point No.1 to 3 are answered in the Negative.

12. Point No.4: In view of the above discussion, this Court proceed to pass the following:

ORDER

I.A.No.1 filed by the plaintiffs
U/O XXXIX Rule 1 & 2 R/w Sec.151 of
CPC., is rejected.

Consequently, exparte temporary
injunction granted in favour of
plaintiffs is vacated.

No order as to costs.

(Dictated to the Stenographer directly on computer, typed by her,
revised and corrected by me and then pronounced in the open Court
on this the 16th day of December 2025)

**Sd/-
(Jyoti Ashok Pattar)
Pri. Civil Judge & JMFC,
Harihar.**